

REMARKS

This is in response to the Office Action dated August 31, 2006. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

Initially, to facilitate the Examiner's reconsideration of the application, the specification and abstract have been reviewed and revised in order to make a few minor editorial amendments. Note that the changes to the abstract are submitted in the form of a substitute abstract. Copies of the amended portions of the specification and abstract with changes marked therein are attached.

Further, by the above amendment, claims 1, 2 and 5 have been amended to address minor formal matters, and new claims 10-18 have been added. Note that the changes in claims 1-9 are not intended to further limit the scope thereof. Also, claim 4 has been amended to provide antecedent basis for the recited retention means, thereby obviating the rejection of this claim under 35 U.S.C. 112, second paragraph. Accordingly, claims 1-18 are currently pending in the present application.

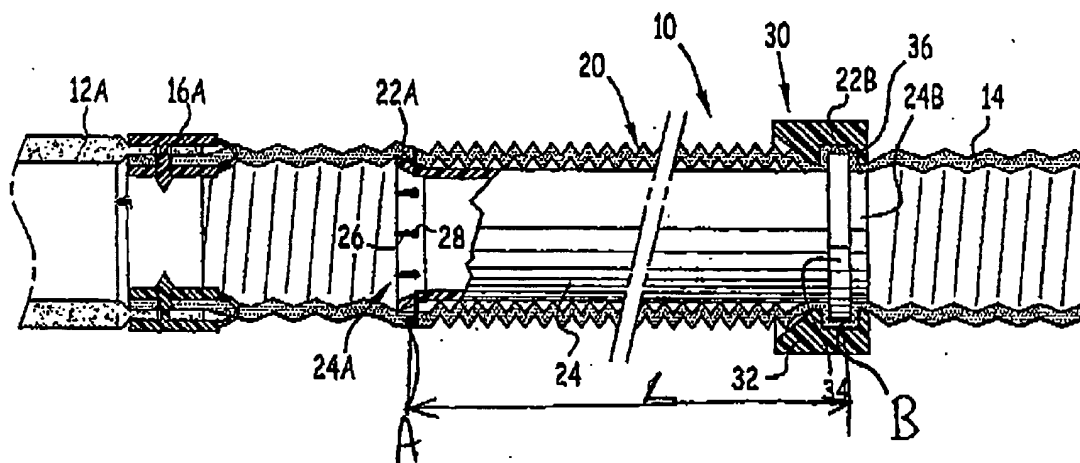
Next, on page 2 of the Office Action, the drawings are objected to because the Examiner is of the opinion that reference numeral 24 identifies both a "spacer" and a "tube." However, the spacer and the tube are the same element. See page 4, lines 15-20 of the specification which describes that the spacer 24 is a rectilinear "tube." Accordingly, reference numeral 24 is used to indicate the same part of the invention and is never used to designate different parts. Thus, the Examiner is requested to

withdraw the objection to the drawings in view of the fact that the drawings are in compliance with the requirements of 37 CFR 1.84(p)(4).

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Next, on pages 3-4 of the Office Action, claims 1-3, 5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Poirier (U.S. Patent No. 4,086,665). Also, claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Poirier patent. It is submitted that the present invention, as defined in claims 1-9, clearly distinguishes over the Poirier patent for the following reasons.

To facilitate the following discussion, an annotated version of Fig. 1 is presented below.



The present invention, as defined in claim 1, requires a vascular prosthesis comprising a flexible duct (14) and adjustable means for fixing the spacing between two distant sections (22A, 22B) of the length of the flexible duct. This means that the two sections of the length of the flexible duct are maintained with a predetermined spacing (L) by the adjustable means, i.e., tube 24, the ring 32 and the strand 26.

In addition, according to claim 1 the flexible duct includes at least one segment that is elastically deformable lengthwise and which extends beyond the first section or the second section (points A and B).

Also, new independent claim 10 requires a flexible duct that is elastically deformable in a lengthwise direction; a tubular member disposed inside the flexible duct, the tubular member having a first end fixed to a first section of the flexible duct and a second end; and a retaining element disposed outside of the flexible duct and engagable with the second end of the tubular member to secure a second section of the flexible duct thereby fixing the spacing between the first and second sections of the flexible duct. Claim 10 also specifies that the flexible duct extends beyond at least one of the first and second sections so as to form at least one segment that is elastically deformable in the lengthwise direction. This specific arrangement is clearly not disclosed or suggested in the prior art of record.

The Poirier patent discloses a prosthesis including an inner porous fabric tube 14, which is connected to a first end connector 24 and a second end connector 36 (see Fig. 1). Rigid reinforcing members 42 extend outside along the tube 14, and are connected to the first end connector 24. An outer impervious tube 18 surrounds the tube 14, and is connected at one end to the end connector 24. Clearly, both tubes 14 and 18 are elastically deformable lengthwise over all their entire length.

Further, a synthetic cloth 22 surrounds the tube 18 and is connected only at end 40 of the tube 18. At the other end, the cloth 22 is not connected to the end connector 24.

It is clear from the design of the vascular prosthesis disclosed in the Poirier patent that the length between end connectors 24 and 36 is not fixed and that the end connector 24 is free to move lengthwise with respect to the end connector 36 since both tubes 14 and 18 are elastically deformable in a lengthwise direction and the cloth 22 is not connected to the end connector 24.

In addition, the tube 14 is not connected to the reinforcing members 42. In fact, there is no connection between the middle part of tube 14 and the end of the reinforcing members 42 (where the reinforcing members are connected to the tube 18).

Accordingly, the Poirier vascular prosthesis lacks any means for fixing a spacing length between two distant sections of the length of the flexible duct since both flexible ducts 14 and 18 are completely free in a lengthwise direction.

In the explanation of the rejection, the Examiner states that the flexible duct is between elements 46 and 76 of Poirier. Thus, it would appear that the Examiner considers the tube 14 to correspond to the flexible duct of claim 1. The Examiner is correct in that the tube is elastically deformable in the lengthwise direction. However, there is no structure in Poirier that corresponds to the adjustment means of claim 1.

In the rejection, the Examiner takes the position that the adjustable means in Poirier is comprised of "spacer 12" (inner surface of tube 14), "first section 18" (flexible impervious tube 18), and "second section 38, 36 & 76" (retainer 38 threaded onto end connector 36 to hold fabric tube 14; and curved section 76 is attached to end connector 36).

However, the structure referenced by the Examiner does not function to fix the spacing between two distant sections of the tube 14. Clearly, the first and second sections (18 and 38, 36 and 76, respectively) are independent of the tube 14. As explained above, there is no intermediate section of the tube 14 that has a fixed length because the tube 14 is elastically deformable in the lengthwise direction.

Note that the length of the Poirier vascular prosthesis is adjusted by cutting the fabric tube 14 and the impervious tube 18 to desired lengths (see col. 2, lines 29-37).

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

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February 28, 2007